

UNPUBLISHEDUNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 09-6985

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

WILLIE L. DUMAS, III,

Defendant - Appellant.

Appeal from the United States District Court for the Southern District of West Virginia, at Beckley. Joseph R. Goodwin, Chief District Judge. (5:04-cr-00058-1; 5:07-cv-00795)

Submitted: October 28, 2009

Decided: December 11, 2009

Before NIEMEYER and AGEE, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Dismissed in part; affirmed in part by unpublished per curiam opinion.

Willie L. Dumas, III, Appellant Pro Se. Charles T. Miller, United States Attorney, Charleston, West Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Willie L. Dumas, III, seeks to appeal the district court's orders denying relief on his 28 U.S.C.A. § 2255 (West Supp. 2009) motion, construing Dumas' motion to amend as a motion for reduction of sentence under 18 U.S.C. § 3582(c)(2) (2006), and denying relief under § 3582(c)(2). The order denying § 2255 relief is not appealable unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1) (2006). A certificate of appealability will not issue absent "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2) (2006). A prisoner satisfies this standard by demonstrating that reasonable jurists would find that any assessment of the constitutional claims by the district court is debatable or wrong and that any dispositive procedural ruling by the district court is likewise debatable. Miller-El v. Cockrell, 537 U.S. 322, 336-38 (2003); Slack v. McDaniel, 529 U.S. 473, 484 (2000); Rose v. Lee, 252 F.3d 676, 683-84 (4th Cir. 2001). We have independently reviewed the record and conclude that Dumas has not made the requisite showing. Accordingly, we deny a certificate of appealability and dismiss the appeal of the order denying § 2255 relief. Further, we have reviewed the district court's order denying Dumas' sentence reduction under 18 U.S.C. § 3582(c)(2) and affirm, finding no reversible error. United

States v. Dumas, No. 5:04-cr-00058-1 (S.D. W. Va. May 15, 2009).

We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED IN PART;
AFFIRMED IN PART